

DOCUMENT 00 51 00 – NOTICE OF AWARD

To: Walters-Morgan Construction, Inc.
5961 Corporate Drive
Manhattan, KS 66503

Project Name: Clinton Lake Water Treatment Plant Chlorine Building
Project No.: 152308
American Rescue Plan Act (ARPA) Grant Application No.: ARP-23-0203-G
Owner: City of Clinton, Oklahoma

You are notified that your Bid, dated May 4, 2024 for the above Contract has been considered. You are the apparent successful Bidder and are being awarded the Contract for the above stated Project and which is described as follows:

The construction of a new chlorine storage and feed facility, scrubber, and other associated facility elements at the Lake Clinton Water Treatment Plant.

The Contract Price of your Contract is three million, one hundred ninety-five thousand dollars (\$3,195,00.00).

Pdf copies of the proposed Contract Documents (except Drawings) accompany this Notice of Award. The set of the Drawings will be delivered separately or otherwise made available to you immediately.

You must comply with the following conditions precedent within 10 days of the date of this Notice of Award, that is by July 8, 2024.

Deliver to the Owner three fully executed counterparts of the Contract Documents. Each of the counterparts must bear your signature on Agreement.

1. Deliver with the executed Agreement the Contract security (Bonds) as specified in the Instructions to Bidders, General Conditions, and Supplementary Conditions as applicable.

Failure to comply with these conditions within the time specified will entitle Owner to consider your Bid in default, to annul this Notice of Award, and to declare your Bid security forfeited.

Within 10 days after you comply with the above conditions, Owner will return to you one fully signed counterparts of the Agreement with the Contract Documents attached.

You are required to return an acknowledgement copy of this Notice of Award to the Owner.

DOCUMENT 00 51 00 – NOTICE OF AWARD: continued

Dated this 26 day of June, 2024.

OWNER

City of Clinton, Oklahoma

By _____

Title _____

Date _____ 2024

ACCEPTANCE OF AWARD

CONTRACTOR

Walterd-Morgan Construction, Inc.

By  _____
Nathan Galle

Title President _____

Date 6/28 _____ 2024

Copy to Engineer
(Use Certified Mail,
Return Receipt requested)

END OF SECTION 00 51 00

DOCUMENT 00 50 00 – AGREEMENT BETWEEN OWNER AND CONTRACTOR

Project Name: Clinton Lake Water Treatment Plant Chlorine Building
Burns & McDonnell Project No.: 152308
American Rescue Plan Act (ARPA) Grant Application No.: ARP-23-0203-G

THIS AGREEMENT is dated as of the ____ day of _____ in the year 2024 by and between City of Clinton, Oklahoma (hereinafter called Owner) and Walters-Morgan Construction (hereinafter called Contractor).

Owner and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 - WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work under this Contract is generally described as follows:

The construction of a new chlorine storage and feed facility, scrubber, and other associated facility elements at the Clinton Lake Water Treatment Plant.

ARTICLE 2 - ENGINEER

2.01 The Project has been designed by Burns & McDonnell Engineering Co. Inc., who is hereinafter called Engineer and who is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 3 - CONTRACT TIME

3.01 TIME OF THE ESSENCE:

A. All time limits for milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 DATES FOR MILESTONES, SUBSTANTIAL COMPLETION AND FINAL PAYMENT:

A. The Work shall be Substantially Completed within 370 calendar days of the Contractor Notice to Proceed and completed and ready for final payment in accordance with the GENERAL CONDITIONS within 30 calendar days after Substantial Completion.

B. Items to be Substantially Complete by the date stated above include all work indicated in the Contract Documents.

C. Contractor's correction period as defined in the GENERAL CONDITIONS shall commence upon Substantial Completion of all the work.

3.03 LIQUIDATED DAMAGES:

A. Owner and Contractor recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the time specified above, plus any

Portions of this document, Copyright, by Engineers Joint Contract Documents Committee (EJCDC), 1983 through 1996 and by Burns & McDonnell Engineering Company, Inc., 1974 through 2008. Cautionary note: many parts of this document vary significantly from EJCDC standard documents.

extensions thereof allowed in accordance with the GENERAL CONDITIONS. The parties also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by Owner if the Work is not Substantially Completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay Owner five hundred dollars (\$500) for each calendar day that expires after the time specified above in Paragraph 3.02 for Milestones and Substantial Completion until the Work is Substantially Complete or Milestones are met. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the time specified in Paragraph 3.02 for completion and readiness for final payment or any proper extension thereof granted by Owner, Contractor shall pay Owner two hundred fifty dollars (\$250) for each day that expires after the time specified for completion and readiness for final payment.

ARTICLE 4 - CONTRACT PRICE

- 4.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to paragraphs below:
- A. LUMP SUM CONTRACT PRICE: For all Work a Lump Sum of: three million, one hundred ninety-five thousand dollars (\$3,195,000.00).

ARTICLE 5 - PAYMENT PROCEDURES

5.01 SUBMITTAL AND PROCESSING OF PAYMENTS:

- A. Contractor shall submit Applications for Payment in accordance with the GENERAL CONDITIONS. Applications for Payment will be processed by Engineer as provided in the GENERAL CONDITIONS.

5.02 PROGRESS PAYMENTS, RETAINAGE:

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer, on or about the first Wednesday of each month during construction. All such payments will be measured by the schedule of values established in the GENERAL CONDITIONS [and in the case of Unit Price Work based on the number of units completed] or, in the event there is no schedule of values, as provided in the General Requirements.
 - 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Engineer shall determine, or Owner may withhold, in accordance with the GENERAL CONDITIONS.
 - a. 90% of Work completed with the balance being retainage. If Work has been 50% completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, Owner on recommendation of Engineer, may determine that as long as the character and progress of the Work subsequently remain satisfactory to them, there will be no additional retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be an amount equal to 100% of the Work completed less the aggregate of payments previously made; and

- b. 90% with the balance being retainage of Equipment and Materials not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to Owner as provided in the GENERAL CONDITIONS.
 - 2. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95% of the Contract Price (with the balance being retainage), less such amounts as Engineer shall determine, or Owner may withhold, in accordance with the GENERAL CONDITIONS.
- 5.03 FINAL PAYMENT:
- A. Upon final completion and acceptance of the Work in accordance with the GENERAL CONDITIONS, Owner shall pay the remainder of the Contract Price as recommended by Engineer and as provided in the GENERAL CONDITIONS.

ARTICLE 6 - INTEREST

- 6.01 INTEREST: Not applicable.

ARTICLE 7 - CONTRACTOR'S REPRESENTATIONS

- 7.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents (including the Addenda) and other related data identified in the Bid Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
 - C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Contractor acknowledges that Owner and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the Site.
 - E. Contractor has obtained and carefully studied (or assumes responsibility of having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, and furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.
 - F. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performing and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
 - G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
 - H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and

DOCUMENT 00 50 00 – AGREEMENT: continued

all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

- I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Contractor.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- K. Other Representations:
 - 1. Contractor has examined and carefully studied the ARPA funding requirements.

ARTICLE 8 - CONTRACT DOCUMENTS

8.01 CONTENTS:

- A. The Contract Documents which comprise the entire Agreement between Owner and Contractor concerning the Work consist of the following and may only be amended, modified, or supplemented as provided in the GENERAL CONDITIONS:
 - 1. This Agreement.
 - 2. Exhibits to this Agreement (enumerated as follows):
 - a. Notice to Proceed.
 - b. Contractor's Bid.
 - c. Documentation submitted by Contractor prior to Notice of Award.
 - 3. Performance, Payment, and other Bonds.
 - 4. General Conditions.
 - 5. Specifications consisting of divisions and sections as listed in table of contents of Project Manual.
 - 6. Drawings consisting of a cover sheet and sheets as listed in the table of contents thereof.
 - 7. Addendum numbers 001 to 002, inclusive.
 - 8. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the GENERAL CONDITIONS.

ARTICLE 9 - MISCELLANEOUS

9.01 TERMS:

- A. Terms used in this Agreement which are defined in the GENERAL CONDITIONS shall have the meanings stated in the GENERAL CONDITIONS.

9.02 ASSIGNMENT OF CONTRACT:

- A. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by Law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.03 SUCCESSORS AND ASSIGNS:

DOCUMENT 00 50 00 – AGREEMENT: continued

- A. Owner and Contractor each binds himself, his partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

9.04 SEVERABILITY:

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.


9.05 OTHER PROVISIONS: Not applicable.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement in triplicate. One counterpart each has been delivered to Owner, Contractor, and Engineer. All portions of the Contract Documents have been signed, initialed, or identified by Owner and Contractor or identified by Engineer on their behalf.

This Agreement will be effective on _____, 2024, which is the Effective Date of the Agreement.

CONTRACTOR
Walters-Morgan Construction, Inc.


OWNER
City of Clinton, Oklahoma

By: 
Title: President

By: _____
Title: _____

(SEAL)

(SEAL)

Attest 

Attest _____

Address for giving notices
Walters-Morgan Construction, Inc.
5961 Corporate Drive
Manhattan, KS 66503

Address for giving notices
City of Clinton, Oklahoma
P.O. Box 1177 / 415 Gary Boulevard
Clinton, Oklahoma 73601

DOCUMENT 00 50 00 – AGREEMENT: continued

License No. _____
(if required by Law)

(If Owner is a public body, attach
evidence of authority to
sign and resolution or other documents
authorizing execution of Agreement)

Agent for Service of process

(if required by law)

(If Contractor is a corporation,
attach evidence of authority to
sign.)

Approved As to Form:

By: _____

Attorney For: _____

END OF SECTION 00 50 00